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JOEL B. RUDIN

BENJAMIN C. FISHMAN
ANNE E. ZERBE

August 22, 2007

REGULAR MAIL & ECF

Honorable Raymond J. Dearie
United States Chief Judge
Eastern District of New York
225 Cadman Plaza East
Brooklyn, New York 11201

Re: Su v. City of New York
06 Civ. 687 (RJD) (CLP)

Dear Judge Dearie:

We represent the plaintiff in the above-captioned Section 1983 lawsuit. The defendant, the City of New York, has filed an objection to Magistrate-Judge Pollak's order, on the grounds of attorney-client and work product privilege, denying them discovery of correspondence between plaintiff and his former criminal defense attorneys, during the 12 years he was contesting his guilt at trial and trying to overturn his conviction. Judge Pollak said she would issue a full decision explaining her reasoning, but defendant was compelled by the applicable rule to file its appeal now.


Mr. Rudin, who is attorney of record, is unavailable through September 10, 2007. In any event, it would make sense to await Judge Pollak's decision, and to allow defendant to submit supplemental papers responding to it, before plaintiff submits papers opposing defendant's appeal. Therefore, we propose that the appeal be held in abeyance for now, and that defendant be given three weeks from the filing of Judge Pollak's decision to submit a supplemental memorandum, that plaintiff be given three weeks from then to respond, and that defendant then have two weeks to reply, if it so chooses. I spoke with defense counsel, and the defendant has consented to this proposal.

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Thank you for your Honor's consideration.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Anne Zerbe". The signature is fluid and cursive, with the first name "Anne" being more prominent than the last name "Zerbe".

Anne Zerbe

AZ/tp

cc: Honorable Cheryl L. Pollak
United States Magistrate Judge

John Graziadei, Esq.
Assistant Corporation Counsel